

IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 18151 of 2005

-

-

-

Dated: 18th August 2005.

-

Between:

Government of A.P. Rep. By Prl. Secretary, Panchayat Raj and Rural Development
and another

..... PETITIONERS

AND

Samson Vinod Kumar

.....RESPONDENT

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

-

W.P.NO.18151 OF 2005

-

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

Aggrieved by an order of the Andhra Pradesh Administrative Tribunal in O.A.No.3690 of 1999, dated 11-08-2004, the respondent-State preferred the present writ petition.

The sole respondent herein was appointed as Junior Assistant on 24th March 1976 and his services are governed by a set of Rules framed under Article 309 of the Constitution; namely, The A.P. Secretariat Subordinate Service Rules. Under Rule 8(1) of the A.P. Secretariat Service Rules, 1965, the post of Assistant Section Officer can be filled up, by promotion, by a person, who was working as Junior Assistant or a Typist, governed by the A.P. Secretariat Subordinate Service Rules (referred to above). The Rule, as it originally stood, stipulated 5 years of minimum service in the category of Junior Assistant before a person's case is considered for promotion as Assistant Section Officer.

As there were vacancies for the post of Assistant Section Officer, a Departmental Promotion Committee (for short 'D.P.C.') was constituted, which met on 16-11-1978 and recommended promotions of seven persons as Assistant Section Officers. Of the said 5 persons, four were working as Junior Assistants and the remaining three as typists. On 25-08-1980, those promotions were reviewed and proceedings were issued, temporarily promoting all the abovementioned seven persons. As the recommendations of the D.P.C. to accord promotion to the three typists was not in conformity with the then existing Rule, the D.P.C. in the review meeting held on 25-08-1980 recommended relaxation of the Rule of ratio insofar as the typists were concerned, while recommending their promotions on permanent basis. Accordingly, relaxation was accorded.

In the meanwhile, there was an amendment to Rule 8(1) of the A.P. Secretariat Service Rules, reducing the minimum period of service of five years, referred to

earlier, for consideration for promotion to the post of Assistant Section Officer, to three years. The respondent earlier approached the A.P. Administrative Tribunal in R.P.No.22274 of 1989 challenging the regularization of the services of the Assistant Section Officers, who were promoted from the post of typists, as according to him, they were promoted in excess of the then existing ratio available to them. It appears from the record that in the said R.P., certain directions were issued.

Complaining that his grievance is not alleviated, the respondent again approached the Tribunal in O.A.No.3690 of 1999 and the Tribunal by the order now under challenge, allowed the O.A. on the ground that though the respondent was not qualified as per the then existing Rules by the date of the meeting of the D.P.C. on 16-11-1978, he was qualified by 25-08-1980 i.e., the date on which the D.P.C. met again to review the recommendations made earlier on 16-11-1978. The Tribunal further held that the respondent was qualified to be considered for promotion in view of the amendment to the Rule 8(1) of the A.P. Secretariat Service Rules, referred to earlier and therefore, there was no necessity to grant relaxation and promote any person permanently from the cadre of typist while there is a qualified candidate from the cadre of the Junior Assistant available.

For the foregoing discussion, we do not see any error of jurisdiction or illegality in decision of the Tribunal and the writ petition is liable to be dismissed.

The writ petition is accordingly, dismissed at the stage of admission. No costs.

J.Chelameswar, J

18th August 2005 M.Venkateswara Reddy, J

mrk